IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 3511 OF 2006

P.A. Inamadar & Ors. .. Petitioners

vs

The State of Maharashtra & Ors. .. Respondents

Mr. Markand Adkar, Advocate i/b Mr. S.R. Ganbavale, Advocate for the petitioners.

Mr. A.A. Kumbhkoni,Associate Advocate General along with Mr. P.P. Kakade, AGP for the respondents.

CORAM : K.J. ROHEE, J.

DATE : 19TH MAY, 2006.

p.c.

. By this group of writ petitions the petitioners have challenged the order dated 20th April, 2006 by Pravesh Niyantran Samiti whereby it cancelled its earlier order permitting the petitioners to hold a separate common entrance test.

2. It was vehemently urged on behalf of the petitioners, that the decision of Pravesh Niyantran Samiti, which is quasi judicial authority is subject to judicial review and the committee is not empowered to review or recalled its earlier order. It was further urged that there is no application of mind by the

Pravesh Niyantran Samiti. It was lastly urged that the petitioners can hold a separate CET apart from those held by other Associations and the State.

3. While justifying the impugned order the learned Associate Advocate General relied on certain paras of the judgments delivered by the Apex Court in this regard. They are as under-

In para 136 of Inamdar V. State of Maharashtra (2005) 6 S.C.C. 537 it is ruled,

> *Whether minority or non-minority institutions, there may be more than one similarly situated institutions imparting education in any one discipline, in any State. The same aspirant seeking admission to take education in any one discipline of education shall have to purchase admission forms from several institutions and appear at several admission tests conducted at different places on the same or different dates and there may be a clash of dates. If the same candidate is required to appear in several tests, he would be subjected to unnecessary and avoidable expenditure and inconvenience. There is nothing wrong in an entrance test being held for one group of institutions imparting same or similar education. Such institutions situated in one State or in more than one State may join together and hold a common entrance test or the State may itself or through an agency arrange for holding of such test. Out of such common merit list the successful candidates can be identified and chosen for being allotted to*

different institutions depending on the courses of study offered, the number of seats, the kind of minority to which the institutions belongs and other relevant factors. Such an agency conducting the common entrance test ("CET" for short) must be one enjoying utmost credibility and expertise in the matter. This would better ensure the fulfilment of twin objects of transparency and merit. CET is necessary in the interest of achieving the said objectives and also for saving the student community from harassment and exploitation. Holding of such common entrance test followed by centralised counselling or, in other words, single-window system regulating admissions does not cause any dent in the right of minority unaided educational institutions to admit students of their choice. Such choice can be exercised from out of the list of successful candidates prepared at CET without altering the order of merit inter se of the students so chosen."

In para 16 of Islamic Academy of Education V. State of Karnataka 2003 (6) SCC 697 it is ruled,

"That brings us to the question as to how the management of both minority and non-minority professional colleges can admit students in the quota allotted to them. Undoubtedly, the majority judgment has kept in mind the said reality that there are a large number of professional colleges which indulge in profiteering and/or charging of capitation fees. It is for this reason that the majority judgment provides that in professional colleges admission must be on the basis of merit. As has been rightly submitted, it is impossible to control profiteering/charging of capitation fees unless it is ensured that admission is on the basis of merit. Also, as has been rightly pointed out,if a great hardship. The application fees charged by each institute, even though they may be only Rs. 500 to Rs. 1000 for each institute, would impose a heavy burden on the students who will necessarily have to apply to a number of colleges. Further, as has been rightly pointed

out, students would have to arrange for transport from and to any stay at various places if they have to appear for individual tests conducted by each college. If a student has to go for test to each institute it is possible that he/she may not be able to reach, in time, the venue of a test of a particular institute. In our view what is necessary is a practical approach keeping in mind the need for a merit based selection. Paragraph 68 provides that admission by the management can be a common entrance test held by "itself or by the Stay/University". The words "common entrance test" clearly indicate that each institute cannot hold a separate test. We thus hold that the management could select students, of their quota, either on the basis of the common entrance test conducted by the State or on the basis of a common entrance test to be conducted by an association of all colleges of a particular type in that State e.g. medical, engineering or technical etc. The common entrance test, held by the association must be for admission to all colleges of that type in that State. The option of choosing, between either of these tests, must be exercised before issuing of prospects and after intimation to the concerned authority and the Committee set up hereinafter. If any professional college chooses not to admit from the common entrance test conducted by the association then that college must necessarily admit from the common entrance test conducted by the State. After holding the common entrance test and declaration of results the merit list will immediately be placed on the notice-board of all colleges which have chosen to admit as per this test. A copy of the merit list will also be forthwith sent to the concerned authority and the Committee. Selection of students must then be strictly on the basis of merit as per that merit list. Of course, as indicated earlier, minority colleges will be entitled to fill up their quota with their own students on the basis of inter se merit amongst those students. The list of students admitted, along with the rank number obtained by the student, the fees collected and

> *all such particulars and details as may be required by the concerned authority or the Committee must be submitted to them forthwith. The question paper and the answer papers must be preserved for such period as the concerned authority or Committee may indicate. If it is found that any student has been admitted dehors merit, penalty can be imposed on that institute and in appropriate cases recognition/ affiliation may also be withdrawn."*

4. I agree with the learned Associate Advocate General that the paras referred to above are a complete answer to the arguments advanced on behalf of the petitioners. In view of this, I find no merit in the petitions. The petitions are, therefore, dismissed in limine.

. Issue authenticated copy.

(K.J. ROHEE, J.)